

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
COLORADO RIVER BASIN REGION**

RESOLUTION NO. R7-2006-0047

**A Resolution Amending the Water Quality Control Plan
of the Colorado River Basin
To Establish the Total Maximum Daily Load and Implementation Plan for Trash
in the New River at the International Boundary, Imperial County, California**

WHEREAS, the California Regional Water Quality Control Board, Colorado River Basin Region (hereinafter Regional Board), finds that:

1. An updated Water Quality Control Plan for the Colorado River Basin (Basin Plan) was adopted by the Regional Board on November 17, 1993, approved by the State Water Resources Control Board (State Water Board) on February 17, 1994, and approved by the Office of Administrative Law on August 3, 1994. This Basin Plan includes amendments adopted by the Regional Board through October 2005.
2. Warm freshwater habitat (WARM); wildlife habitat (WILD); preservation of rare, threatened, or endangered species (RARE); water contact recreation (REC I); non-contact water recreation (REC II); and freshwater replenishment (FRSH) are the beneficial use designations specified in the Basin Plan for the New River.
3. The Basin Plan includes narrative water quality objectives related to trash to protect the beneficial uses listed in Finding No. 2, above. Applicable Basin Plan objectives include: (a) general surface water objectives for all surface waters of the Region (Aesthetic Qualities, Tainting Substances, Dissolved Oxygen, Suspended Solids and Settleable Solids, Biostimulatory Substances, and Turbidity), and (b) specific surface water objectives for the New River at the International Boundary (Qualitative Standards 1 through 5 of Minute No. 264 of the Mexican-American Water Treaty).
4. Water quality objectives are not being met in the U.S. section of the New River because trash: (a) is discharged to the New River and tributaries in Mexico, (b) crosses the International Boundary, and (c) impacts beneficial uses of the New River in the United States. Trash adversely affects fish and wildlife communities. Trash also causes secondary water quality impacts that may extend to the River's terminus at the Salton Sea because trash serves as a carrier for pathogens, dissolved organic matter, and volatile organic compounds that pose a public health threat to people and fish and wildlife communities.
5. Pursuant to Section 303(d) of the Clean Water Act [42 U.S.C. § 1313(d)], the New River is listed as water quality impaired because of trash. Section 303(d) of the Clean Water Act requires the establishment of a Total Maximum Daily Load (TMDL) for the amount of trash that can be discharged while still ensuring compliance with

water quality standards. Section 303(d) also requires the allocation of this TMDL among sources of trash, together with an implementation plan and schedule that will ensure that the TMDL is met and that compliance with water quality standards is achieved.

6. The subject TMDL focuses on the New River at the International Boundary, although the entire New River is listed as impaired on the state 303(d) List. The International Boundary area has been prioritized over other New River reaches because of proximity to the major trash source (which originates in Mexico), and because limited Regional Board resources are being targeted on the most polluted areas in the region. Additionally, reduced trash at the International Boundary will lead to a reduction in trash in downstream reaches and a reduction in pollutants (e.g., pathogens, volatile organic compounds, and organic matter) carried by or leached from trash.
7. The Basin Plan Amendment occurs in two phases, and establishes an interim numeric target of 75% trash reduction by the end of Phase I and a final numeric target of 100% trash reduction by the end of Phase II for the New River at the International Boundary. Numeric targets in a TMDL are not water quality objectives. Numeric targets are implementation tools that translate existing objectives by quantifying the limits those objectives require, considering seasonal variations, natural background sources, and a margin of safety.
8. The Regional Board does not have the authority to require Mexico or the U.S. Government to reduce trash that crosses the International Boundary. However, the Regional Board has the ability to raise awareness with U.S. agencies, as third party cooperating agencies that directly cooperate with Mexico on International Boundary issues. Therefore, this TMDL requests, but does not require, that the U.S. Government (i.e., U.S. Section of the International Boundary and Water Commission and the U.S. Environmental Protection Agency): (a) specifies and implements measures to ensure that trash discharges from Mexico do not violate or contribute to a violation of this TMDL, (b) removes trash from Mexico that has accumulated at Imperial County Calxico Landfill culverts, and (c) conducts water quality and trash monitoring in the New River at the International Boundary.
9. This TMDL requests, but does not require, that all third party cooperating agencies and organizations increase their coordination of New River projects through a Memorandum of Understanding.
10. This TMDL is necessary because the U.S. Government has not met its past obligations and timelines in assisting Mexico with reducing multiple pollutants that chronically cross into the United States via the New River.
11. The New River is a designated Environmental Justice Pilot Project for the California Environmental Protection Agency with the goal of developing a children's environmental risk reduction plan through a Regional Advisory Group comprised of

community members, Tribal/local/federal government, and the Mexican government.

12. The Project Report, titled "Total Maximum Daily Load and Implementation Plan for Trash in the New River at the International Boundary, Imperial County, California", and the Basin Plan Amendment, which establishes the TMDL and the Implementation Plan, are attached to this Resolution, and meet the requirements of Section 303(d) of the Clean Water Act.
13. The Regional Board prepared and distributed written reports regarding adoption of the Basin Plan Amendment in compliance with applicable state and federal environmental regulations (Cal. Code Regs., tit. 23, § 3775 et seq.; 40 C.F.R. §§ 25, 130, 131 (2004).)
14. The Secretary for Resources certified the basin planning process as being exempt from certain environmental review requirements of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and therefore, an Initial Study, Negative Declaration, and Environmental Impact Report are not required (Pub. Resources Code § 21080.5; Cal. Code Regs., tit. 14, § 15251, subd. (g)). In accordance with section 3777 of Title 23 of the California Code of Regulations, the Project Report-Basin Plan Amendment package includes a CEQA Environmental Checklist and Determination that assesses the potential environmental impacts of the Basin Plan Amendment and discusses alternatives, among other analyses. The Project Report, Basin Plan Amendment, and CEQA Environmental Checklist and Determination, and supporting documentation are considered substitute environmental documents that may be relied on in lieu of an Initial Study, Negative Declaration, and Environmental Impact Report (Cal. Code Regs., tit. 14, § 15252).
15. The adoption of the Basin Plan Amendment based on the Project Report is a regulatory action subject to the requirements of Public Resources Code section 21159. Consistent with the requirements of that section, the CEQA Environmental Checklist and Determination includes an analysis of reasonably foreseeable environmental impacts resulting from project implementation, an analysis of reasonably foreseeable feasible mitigation measures, and an analysis of reasonably foreseeable alternative means of compliance (Pub. Resources Code § 21159, subd. (a)(1)-(3); Cal. Code Regs., tit. 14, § 15187, subds. (b), (c)(1)-(3)). The analysis in the CEQA Environmental Checklist and Determination takes into account a reasonable range of environmental, economic, and technical factors, population and geographic areas, and specific sites. The CEQA analysis determined that the proposed Basin Plan Amendment would not have a significant adverse effect on the environment. Regional Board staff has presented the CEQA Environmental Checklist and Determination to the Regional Board, which reviewed and considered the analysis before adopting this amendment.

16. The Regional Board has considered federal and state anti-degradation policies and other relevant water quality control policies and finds that the Basin Plan Amendment is consistent with those policies.
17. On May 14, 2003, a duly-noticed public CEQA Scoping Meeting for the subject TMDL was held in Calexico, California.
18. Consistent with sections 3778 and 3779 of title 23, California Code of Regulations, Regional Board staff consulted with stakeholders in the region and with other potentially affected parties about the proposed action, and considered and addressed comments on the matter.
19. On June 21, 2005, the Regional Board held a Public Hearing to consider the Project Report and Basin Plan Amendment. Notice of the Public Hearing was given to all interested persons and published in accordance with Water Code section 13244, and 40 Code of Federal Regulations part 25.
20. The Basin Plan Amendment must be reviewed and approved by the State Water Board. Once approved by the State Water Board, the amendment is submitted to the State Office of Administrative Law (OAL) for its concurrence that the amendment meets State Administrative Procedures Act requirements. A Notice of Decision is filed with the Secretary for Resources after the State Water Board and OAL have acted on this matter, where it is posted for public inspection for at least 30 days. Following State Water Board and OAL approval, the Basin Plan Amendment is forwarded to the U.S. Environmental Protection Agency for its review and approval.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Regional Board adopts the amendment to the Water Quality Control Plan for the Colorado River Basin as set forth in the attached Basin Plan Amendment.
2. The Executive Officer is directed to forward copies of the Basin Plan Amendment to the State Water Board in accordance with the requirement of Section 13245 of the California Water Code.
3. The Regional Board requests the State Water Board approve the Basin Plan Amendment in accordance with Sections 13245 and 13246 of the California Water Code and forward the Basin Plan Amendment to the OAL and U.S. Environmental Protection Agency for approval.
4. The Executive Officer is directed to file a Notice of Decision with the California Secretary for Resources after OAL approval of the Basin Plan Amendment, in accordance with section 21080.5, subdivision (d)(2)(E), of the Public Resources Code, and section 3781 of title 23 of the California Code of Regulations.

5. If, during the approval process the State Water Board or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Regional Board of any such changes.

I, Robert Perdue, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Colorado River Basin Region, on _____.

Robert Perdue
Executive Officer